

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1371 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VAJIRABAI PIDABHAI

Versus

HATIM NAJARALI

Appearance:

MR YOGESH S LAKHANI for Petitioners

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/11/98

ORAL JUDGEMENT

#. This civil revision application is directed by plaintiffs-petitioners against the order of the Civil Judge (S.D.), Rajkot, dated 6.8.81 in Regular Civil Suit No.324/73 below ex.118, under which the document ex.45/5 was not admitted in evidence.

#. In this civil revision application, notice has been

issued to the respondents on 31st August 1981 and interim relief in terms of para-4B has been granted. Para-4B reads as under:

That during the pendency and final hearing of the present revision application, stay as to further proceedings of Civil Suit No.324 of 1973 of the Court of Civil Judge (S.D.), at Rajkot, be kindly granted.

Then on 8th September 1981, this revision application has been admitted and interim relief which has been granted earlier by this Court was ordered to be continued.

#. It is really shocking that proceedings of the civil suit of the year 1973 are lying stayed in this Court in this matter but the registry has not placed this matter for hearing in the Court at the earliest. This civil revision application is of the year 1981 but for the reasons best known to the registry, this matter has been placed on the Board after 17 years of the filing thereof and that too only when this Court has directed the registry for placing old matters for hearing on the Board.

#. Heard the learned counsel for the petitioners.

#. From the impugned order, I find that the petitioners wanted to produce the evidence, the Register from the office of the District Land Records office. This document has been brought by witness Prabhudas Vitthaldas a clerk of District Land Records office and it was a bulky record and further being a public document to be made available all the time in the office of the District Land Records office, a certified copy therefrom has been taken on comparison from the original entry in the said Register. That copy is sought to be admitted in evidence but under the impugned order, it was not admitted in evidence but in fact and substance and more precisely in reality, the plaintiffs-petitioners wanted to produce in evidence the original register maintained in the office of the District Land Records Officer with respect to documents which were being registered from time to time. That Register was not kept and could not have been kept in the record of the suit out of which this civil revision application arises and a certified copy thereof is to be admitted in evidence. The learned trial Court, by refusing to admit the document, a certified copy of the original public record has clearly committed a material irregularity in exercising its jurisdiction. Moreover, by declining to admit this document in evidence it will certainly occasion failure of justice and also

will cause injury to the plaintiffs-petitioners. The original of certified copy is always available and even it can be called for perusal at any time. It is a Register to be kept in the office of the District Land Records Officer and it is being public document also this could not be kept in Court record.

#. So taking into consideration the totality of the facts of this case, this revision application deserves to be allowed and accordingly it is allowed and the impugned order of the Court below dated 16th August 1981, is set aside and the document ex.45/5 is ordered to be admitted in evidence. Rule made absolute. No order as to costs.

(S.K.Keshote, J.)

(sunil)